## REMARKS

Claims 1-4, 6 and 8-13 are pending. Reconsideration is requested.

### *Claim Rejections - 35 U.S.C. § 103*

Claims 1-4 and 8-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent App. Pub. No. 2002/0015825 to Meco et al. (hereinafter "Meco") in view of European Patent App. Pub. No. 1052425 to Osako et al. (hereinafter "Osako"). Applicants respectfully traverse this rejection.

Claim 1 is directed to a toothed belt, comprising:

> a body (2) and a plurality of teeth (4); said teeth being coated with a fabric (5); said fabric (5) being treated with a liquid solution of RFL impregnating fibres of the fabric and successively coated on the outside with a resistant layer (8); **said resistant layer (8) adhering directly to said fabric and comprising a fluorinated plastomer and an elastomeric material; wherein said fluorinated plastomer** is in an amount by weight of between 101 and 150 parts by weight with respect to said elastomeric material and **is formed for more than 50% by particles of average size smaller than 10 μm. (emphasis added)**

Rejecting claim 1, the Office Action asserts that the toothed belt 1 shown in FIG. 1 of Meco include a resistant layer 8 "adhering directly to said fabric [5]... (see paragraph 0028)." Applicants disagree.

Paragraph [0028] of Meco states:

> A toothed belt 1 according to the present invention further comprises **a resistant layer 8 which coats the fabric 5 externally** and consists of a fluorinated plastomer with the addition of an elastomeric material on top of the coating fabric 5, the fluorinated plastomer being present in an amount in weight greater than that of the elastomeric material.

The fact that paragraph [0028] states that the resistant layer 8 "coats the fabric 5 externally" does not mean that the resistant layer is adhered directly to the fabric 5, as in claims 1 and 8. On the contrary, FIG. 1 of Meco shows an adhesive material 9 disposed between the fabric 5 and the resistant layer 8.

Further, at paragraphs [0029] and [0030], Meco states:

> In addition, **set between the coating fabric 5 and the resistant layer 8 is an adhesive material 9,** for instance a CHEMOSIL (HENKEL registered trade mark) adhesive or a CHELOK (LORD registered trade mark) adhesive.
>
> As shown in FIG. 3, where the white parts between the fabric 5 and the resistant layer 8 represent the adhesive material 9, **the resistant layer 8 is in this way clearly distinct and separate from the underlying fabric 5. (emphasis added)**

In view of the above-quoted description, Meco explicitly teaches a structure and method wherein the resistant layer 8 is adhered directly to the adhesive material 9 and that the adhesive material 9 is adhered directly to the fabric 5. Consequently, the resistant layer 8 is adhered *indirectly* to the fabric 5. Because the toothed belt 1 of Meco includes a resistant layer 8 adhering *indirectly* to the fabric 5, the toothed belt 1 of Meco does not include a "resistant layer (8) adhering directly to said fabric," as recited in claim 1. Osako does not cure this deficiency of Meco.

For at least the reasons presented above, claim 1 is not rendered obvious by the combination of Meco in view of Osako.

Further rejecting claim 1, the Office Action asserts that one of ordinary skill in the art would have found it obvious to modify the resistant layer 8 of Meco "to include plastomer particle configuration taught by Osako et al. [having particles of average size small than 10 micrometers] in order to improve dispersion of the materials, thereby ensuring a consistent product and performance (See paragraph 0063 of Osako et al.)." Applicants disagree.

Meco contains no teaching or suggestion that the dispersion of fluorinated plastomer particles within the resistant layer 8 described therein is undesirably bad. Osako fails to suggest that the dispersion of fluorinated plastomer particles within the resistant layer 8 of Meco is undesirably bad. Moreover, the Office Action fails to identify any basis in fact or technical reasoning reasonably supporting a determination that the dispersion of fluorinated plastomer particles within the resistant layer 8 of Meco is undesirably bad. In view of the above, and absent any objective evidence to the contrary, the rationale proffered by the Office Action to

modify Meco using Osako is merely speculative, and does not constitute a reason having a *rational underpinning* necessary to support a legal conclusion of obviousness.

For at least these additional reasons, claim 1 is not rendered obvious by the combination of Meco in view of Osako.

Elements recited in claims 8 and 13 are similar to those recited in claim 1. Therefore, arguments traversing the rejection of claim 1 are similarly applicable in traversing the rejection of claims 8 and 13.

Claims 2-4 and 9-12 variously depend from claims 1 and 8 and, therefore, are not rendered obvious by the combination of Meco in view of Osako at least by virtue of their various dependences from claims 1 and 8.

Further rejecting claims 9 and 12, the Office Action asserts that one of ordinary skill in the art would have found it obvious to modify Meco by applying the resistant layer 8 via spreading as allegedly taught by Osako as spreading would "provide uniform structure." Applicants disagree.

The resistant layer 8 of Osako is already uniform. *See, e.g.*, Meco at FIG. 1 and at paragraphs [0034] and [0035]. Moreover, Meco contains no teaching or suggestion that the resistant layer 8 described therein is undesirably non-uniform. Osako fails to suggest that the resistant layer 8 of Meco is undesirably non-uniform. Moreover, the Office Action fails to identify any basis in fact or technical reasoning reasonably supporting a determination that the resistant layer 8 of Meco is undesirably non-uniform. In view of the above, and absent any objective evidence to the contrary, the rationale proffered by the Office Action to modify Meco using Osako is merely speculative, and does not constitute a reason having a *rational underpinning* necessary to support a legal conclusion of obviousness.

For at least the reasons presented above, claims 9 and 12 are not rendered obvious by the combination of Meco in view of Osako.

The Examiner still fails to acknowledge the nonobviousness of pending claim 1 on the base of wrong assumptions which have no evidentiary scientific basis. The Examiner repeats all the objections of the previous Office Actions and particularly the fact that the liquid treatment of Osako can be applied to the Di Meco et al.'s resistant layer during the mixing phase (when the layer is in the resin form). This is totally wrong. The liquid treatment of Osako is applied on the fabric and it is an adhesive. If you add it to the layer of the present invention, you have a distinct solid layer that cannot be used as an adhesive, hence the fabric will not adhere to the elastomeric body of the belt.

On page 5 of Applicant's previous amendment (paper filed 15 May 2009), Applicant pointed out the improper combination and, in particular, that the general conditions for combination are not met. The Examiner has not answered Applicant's arguments as required under MPEP § 707.07(F). These arguments, incorporated by this reference, remain as further reasons that the claims are patentable.

In addition, Applicant also points the Examiner to the unexpected advantages described in the specification at page 8, line 15 through page 9, line 10.

In review of the foregoing amendments and remarks, the application should be in condition for allowance. Applicant hereby requests a telephone interview with the Examiner and the Supervisor. We will contact the Examiner to schedule the interview.

Respectfully submitted,

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